



DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[FAR Case 2021-016, Docket No. FAR-2021-016, Sequence No. 1]

RIN 9000-AO33

Federal Acquisition Regulation: Minimizing the Risk of Climate Change in Federal Acquisitions

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Acquisition Regulatory Council is considering amending the Federal Acquisition Regulation (FAR) to ensure that major Federal agency procurements minimize the risk of climate change. DoD, GSA, and NASA are seeking public input on a potential FAR amendment.

DATES: Interested parties should submit written comments to the Regulatory Secretariat Division at the address shown below on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]** to be considered in the formation of the proposed rule.

ADDRESSES: Submit comments in response to FAR Case 2021-016 to the Federal eRulemaking portal at

<https://www.regulations.gov> by searching for "FAR Case 2021-016". Select the link "Comment Now" that corresponds with "FAR Case 2021-016". Follow the instructions provided on the "Comment Now" screen. Please include your name, company name (if any), and "FAR Case 2021-016" on your attached document. If your comment cannot be submitted using <https://www.regulations.gov>, call or email the points of contact in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

Instructions: Please submit comments only and cite "FAR Case 2021-016" in all correspondence related to this case. Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check <https://www.regulations.gov>, approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Hawes, Procurement Analyst, at 202-969-7386 or by email at jennifer.hawes@gsa.gov, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755 or GSAREgSec@gsa.gov. Please cite FAR Case 2021-016.

SUPPLEMENTARY INFORMATION:

I. Background

On May 20, 2021, President Biden signed Executive Order (E.O.) 14030, Climate-Related Financial Risk (May 25, 2021, 86 FR 27967). The E.O. recognizes that the intensifying impacts of climate change present a set of growing risks to financial assets, companies, communities, and workers. The Federal Government itself is exposed to these same risks. The failure to appropriately and adequately account for these risks threatens the financial and operational effectiveness of the Federal Government and its ability to meet the needs of its citizens.

The E.O. states that the Federal Government should lead by example by appropriately prioritizing Federal investments and conducting prudent fiscal management. One critical lever is ensuring that the Federal Government manages climate-related financial risk within its own procurement activity, while also leveraging its scale as the Nation's largest spender to speed the adoption of key assessment, disclosure, and mitigation measures across the private sector. To that end, section 5(b)(ii) of the E.O. directed the Federal Acquisition Regulatory Council, in consultation with the Chair of the Council on Environmental Quality and the heads of other agencies as appropriate, to consider amending the FAR to ensure that major Federal agency procurements minimize the risk of climate change, including requiring the social cost of greenhouse gas emissions to be considered in procurement decisions and,

where appropriate and feasible, giving preference to bids and proposals from suppliers with a lower social cost of greenhouse gas emissions.

As stated in section 5(a) of E.O. 13990, Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis, the "social cost" is an estimate of the monetized damages associated with incremental increases in greenhouse gas emissions (January 25, 2021, 86 FR 7037). Interim estimates on the social cost of carbon, methane, and nitrous oxide under E.O. 13990 were published in February 2021 and are available at https://www.whitehouse.gov/wp-content/uploads/2021/02/TechnicalSupportDocument_SocialCostofCarbonMethaneNitrousOxide.pdf. Recommendations from the Interagency Working Group on the Social Cost of Greenhouse Gases established under E.O. 13990 on considering the social cost of carbon, methane, and nitrous oxide in procurement will also be considered in development of a proposed rule under this FAR case.

Current FAR coverage of greenhouse gas emissions is primarily in subpart 23.8 and the associated clauses in part 52, with definitions at 2.101 and 23.001. FAR Case 2021-015, Disclosure of Greenhouse Gas Emissions and Climate-Related Financial Risk, implements section 5(b)(i) of the E.O.; that paragraph requires consideration of a FAR amendment to require major Federal suppliers to publicly

disclose greenhouse gas emissions and climate-related financial risk and to set science-based reduction targets.

II. Request for Public Comment

DoD, GSA, and NASA welcome general input from the public on a potential amendment to the FAR to accomplish the stated objectives. Respondents are encouraged to offer their feedback on the following questions:

(a) How can greenhouse gas emissions, including the social cost of greenhouse gases, best be qualitatively and quantitatively considered in Federal procurement decisions, both domestic and overseas? How might this vary across different sectors?

(b) What are usable and respected methodologies for measuring the greenhouse gases emissions over the lifecycle of the products procured or leased, or of the services performed?

(c) How can procurement and program officials of major Federal agency procurements better incorporate and mitigate climate-related financial risk? How else might the Federal Government consider and minimize climate-related financial risks through procurement decisions, both domestic and overseas?

(d) How would (or how does) your organization provide greenhouse gas emission data for proposals and/or contract performance?

(e) How might the Federal Government best standardize greenhouse gas emission reporting methods? How might the Government verify greenhouse gas emissions reporting?

(f) How might the Federal Government give preference to bids and proposals from suppliers, both domestic and overseas, to achieve reductions in greenhouse gas emissions or reduce the social cost of greenhouse gas emissions most effectively?

(g) How might the Government consider commitments by suppliers to reduce or mitigate greenhouse gas emissions?

(h) What impact would consideration of the social cost of greenhouse gases in procurement decisions have on small businesses, including small disadvantaged businesses, women-owned small businesses, service-disabled veteran-owned small businesses, and Historically Underutilized Business Zone (HUBZone) small businesses? How should the FAR Council best align this objective with efforts to ensure opportunity for small businesses?

William F. Clark,
Director,
Office of Government-wide
Acquisition Policy,
Office of Acquisition Policy,
Office of Government-wide Policy.

[FR Doc. 2021-22266 Filed: 10/14/2021 8:45 am; Publication Date: 10/15/2021]